

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	Chapter 11
)	
KATERRA INC., <i>et al.</i> ,)	Case No. 21-31861 (DRJ)
)	
)	(Jointly Administered)
<i>Debtors.</i>)	
)	
KATERRA INC., by and through Daniel R. Williams, as Plan Administrator on behalf of Katterra Inc. and related debtors,)	Adv. No. 22-03344
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
Deloitte & Touche LLP,)	
<i>Defendant.</i>)	
)	

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT’S MOTION
TO COMPEL ARBITRATION AND STAYING THE ADVERSARY PROCEEDING**

After consideration of the motion (the “Motion”) of Deloitte & Touche LLP (“D&T”) to Compel Arbitration and Dismiss or, in the Alternative, Stay the Adversary Proceeding, *see* Dkt. No. 22, and the response and objection filed by the Debtors, *see* Dkt. No. 39; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b), or that the parties have impliedly consented to the Court’s resolution of the Motion pursuant to 28 U.S.C. § 157(c); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that following notice and hearing; upon all of the proceedings had before this

Court; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** in part and **DENIED** in part. In support, the Court finds and holds as follows:

2. D&T and Kattera Inc. (together, the “parties”) entered valid and enforceable arbitration agreements. For purposes of this motion only, the parties agreed “that the Court could assume that the 2016-2020 engagement letters” containing those arbitration agreements “are executory.” Ex. 65-6. Even assuming that the engagement letters are executory, and thus rejected under 11 U.S.C. § 365, the arbitration agreements are still enforceable under 9 U.S.C. §§ 2 and 4. And except as to one claim asserted in the Complaint, enforcement of the arbitration agreements does not conflict with any provision or purpose of the Bankruptcy Code.

3. Therefore, as to the claims asserted in Counts II, III, IV, V, and VI of the Complaint, *see* Ex. 67-6 (“Compl.”) ¶¶ 647–684, the Court **GRANTS** D&T’s motion to compel and orders the parties to arbitration pursuant to the terms of their agreements to arbitrate, notwithstanding and without regard to this or any other proceedings before this Court.

4. As to the claim asserted in Count I of the Complaint, for fraudulent transfer under 11 U.S.C. § 544(b), 548(a), 550, 551 and Tex. Bus. & Com. Code Ann. § 24.005(a)(2), *see id.* ¶¶ 634–646, the Court finds that arbitration of that claim would conflict with the purposes of the Bankruptcy Code. Accordingly, the Court **DENIES** D&T’s Motion as to, and retains jurisdiction over, Count I.

5. However, the Court immediately **STAYS** all proceedings related to Count I, pending final completion of arbitration proceedings related to Counts II through VI—including

any proceedings seeking confirmation, vacatur, or modification of any arbitral award(s), unless otherwise ordered by the Court.

6. Should it become necessary after final completion of the arbitration proceedings pertaining to Counts II through VI, either party may request that the Court lift the stay of Count I in order to resolve any remaining disputes as to the claims in Count I. Until then, all proceedings related to Count I will remain stayed, unless otherwise ordered by the Court.

Dated: _____, 2023

DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

Approved as to Form Only:

/s/ Trey A. Monsour

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